

By: White

H.B. No. 2787

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the prohibition of employment discrimination based on
3 an individual's political beliefs.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter A, Chapter 21, Labor Code, is amended
6 by adding Section 21.0023 to read as follows:

7 Sec. 21.0023. POLITICAL BELIEFS. For purposes of this
8 chapter, the term "political beliefs" includes only an individual's
9 political beliefs that are expressed outside the workplace and
10 outside the course and scope of the individual's employment.

11 SECTION 2. Section 21.051, Labor Code, is amended to read as
12 follows:

13 Sec. 21.051. DISCRIMINATION BY EMPLOYER. An employer
14 commits an unlawful employment practice if because of race, color,
15 disability, religion, sex, national origin, ~~or~~ age, or political
16 beliefs the employer:

17 (1) fails or refuses to hire an individual, discharges
18 an individual, or discriminates in any other manner against an
19 individual in connection with compensation or the terms,
20 conditions, or privileges of employment; or

21 (2) limits, segregates, or classifies an employee or
22 applicant for employment in a manner that would deprive or tend to
23 deprive an individual of any employment opportunity or adversely
24 affect in any other manner the status of an employee.

1 SECTION 3. Section 21.052, Labor Code, is amended to read as
2 follows:

3 Sec. 21.052. DISCRIMINATION BY EMPLOYMENT AGENCY. An
4 employment agency commits an unlawful employment practice if the
5 employment agency:

6 (1) fails or refuses to refer for employment or
7 discriminates in any other manner against an individual because of
8 race, color, disability, religion, sex, national origin, ~~or~~ age,
9 or political beliefs; or

10 (2) classifies or refers an individual for employment
11 on the basis of race, color, disability, religion, sex, national
12 origin, ~~or~~ age, or political beliefs.

13 SECTION 4. Section 21.053, Labor Code, is amended to read as
14 follows:

15 Sec. 21.053. DISCRIMINATION BY LABOR ORGANIZATION. A labor
16 organization commits an unlawful employment practice if because of
17 race, color, disability, religion, sex, national origin, ~~or~~ age,
18 or political beliefs the labor organization:

19 (1) excludes or expels from membership or
20 discriminates in any other manner against an individual; or

21 (2) limits, segregates, or classifies a member or an
22 applicant for membership or classifies or fails or refuses to refer
23 for employment an individual in a manner that would:

24 (A) deprive or tend to deprive an individual of
25 any employment opportunity;

26 (B) limit an employment opportunity or adversely
27 affect in any other manner the status of an employee or of an

1 applicant for employment; or

2 (C) cause or attempt to cause an employer to
3 violate this subchapter.

4 SECTION 5. Section 21.054(a), Labor Code, is amended to
5 read as follows:

6 (a) Unless a training or retraining opportunity or program
7 is provided under an affirmative action plan approved under a
8 federal law, rule, or order, an employer, labor organization, or
9 joint labor-management committee controlling an apprenticeship,
10 on-the-job training, or other training or retraining program
11 commits an unlawful employment practice if the employer, labor
12 organization, or committee discriminates against an individual
13 because of race, color, disability, religion, sex, national origin,
14 [~~or~~] age, or political beliefs in admission to or participation in
15 the program.

16 SECTION 6. Section 21.059(a), Labor Code, is amended to
17 read as follows:

18 (a) An employer, labor organization, employment agency, or
19 joint labor-management committee controlling an apprenticeship,
20 on-the-job training, or other training or retraining program
21 commits an unlawful employment practice if the employer, labor
22 organization, employment agency, or committee prints or publishes
23 or causes to be printed or published a notice or advertisement
24 relating to employment that:

25 (1) indicates a preference, limitation,
26 specification, or discrimination based on race, color, disability,
27 religion, sex, national origin, [~~or~~] age, or political beliefs; and

1 (2) concerns an employee's status, employment, or
2 admission to or membership or participation in a labor union or
3 training or retraining program.

4 SECTION 7. Section 21.102(c), Labor Code, is amended to
5 read as follows:

6 (c) This section does not apply to standards of compensation
7 or terms, conditions, or privileges of employment that are
8 discriminatory on the basis of race, color, disability, religion,
9 sex, national origin, [~~or~~] age, or political beliefs.

10 SECTION 8. Section 21.112, Labor Code, is amended to read as
11 follows:

12 Sec. 21.112. EMPLOYEES AT DIFFERENT LOCATIONS. An employer
13 does not commit an unlawful employment practice by applying to
14 employees who work in different locations different standards of
15 compensation or different terms, conditions, or privileges of
16 employment that are not discriminatory on the basis of race, color,
17 disability, religion, sex, national origin, [~~or~~] age, or political
18 beliefs.

19 SECTION 9. Section 21.113, Labor Code, is amended to read as
20 follows:

21 Sec. 21.113. IMBALANCE PLAN NOT REQUIRED. This chapter
22 does not require a person subject to this chapter to grant
23 preferential treatment to an individual or a group on the basis of
24 race, color, disability, religion, sex, national origin, [~~or~~] age,
25 or political beliefs because of an imbalance between:

26 (1) the total number or percentage of persons of that
27 individual's or group's race, color, disability, religion, sex,

1 national origin, [~~or~~] age, or political beliefs:

2 (A) employed by an employer;

3 (B) referred or classified for employment by an
4 employment agency or labor organization;

5 (C) admitted to membership or classified by a
6 labor organization; or

7 (D) admitted to or employed in an apprenticeship,
8 on-the-job training, or other training or retraining program; and

9 (2) the total number or percentage of persons of that
10 race, color, disability, religion, sex, national origin, or age or
11 holding those political beliefs in:

12 (A) a community, this state, a region, or other
13 area; or

14 (B) the available work force in a community, this
15 state, a region, or other area.

16 SECTION 10. Section 21.120(b), Labor Code, is amended to
17 read as follows:

18 (b) Subsection (a) does not apply to a policy adopted or
19 applied with the intent to discriminate because of race, color,
20 sex, national origin, religion, age, [~~or~~] disability, or political
21 beliefs.

22 SECTION 11. Section 21.122(a), Labor Code, is amended to
23 read as follows:

24 (a) An unlawful employment practice based on disparate
25 impact is established under this chapter only if:

26 (1) a complainant demonstrates that a respondent uses
27 a particular employment practice that causes a disparate impact on

1 the basis of race, color, sex, national origin, religion, [~~or~~]
2 disability, or political beliefs and the respondent fails to
3 demonstrate that the challenged practice is job-related for the
4 position in question and consistent with business necessity; or

5 (2) the complainant makes the demonstration in
6 accordance with federal law as that law existed June 4, 1989, with
7 respect to the concept of alternative employment practices, and the
8 respondent refuses to adopt such an alternative employment
9 practice.

10 SECTION 12. Section 21.124, Labor Code, is amended to read
11 as follows:

12 Sec. 21.124. PROHIBITION AGAINST DISCRIMINATORY USE OF TEST
13 SCORES. It is an unlawful employment practice for a respondent, in
14 connection with the selection or referral of applicants for
15 employment or promotion, to adjust the scores of, use different
16 cutoff scores for, or otherwise alter the results of
17 employment-related tests on the basis of race, color, sex, national
18 origin, religion, age, [~~or~~] disability, or political beliefs.

19 SECTION 13. The heading to Section 21.125, Labor Code, is
20 amended to read as follows:

21 Sec. 21.125. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE
22 CONSIDERATION OF RACE, COLOR, SEX, NATIONAL ORIGIN, RELIGION, AGE,
23 [~~OR~~] DISABILITY, OR POLITICAL BELIEFS IN EMPLOYMENT PRACTICES.

24 SECTION 14. Section 21.125(a), Labor Code, is amended to
25 read as follows:

26 (a) Except as otherwise provided by this chapter, an
27 unlawful employment practice is established when the complainant

1 demonstrates that race, color, sex, national origin, religion, age,
2 [~~or~~] disability, or a political belief was a motivating factor for
3 an employment practice, even if other factors also motivated the
4 practice, unless race, color, sex, national origin, religion, age,
5 [~~or~~] disability, or a political belief is combined with objective
6 job-related factors to attain diversity in the employer's work
7 force.

8 SECTION 15. Section 21.126, Labor Code, is amended to read
9 as follows:

10 Sec. 21.126. COVERAGE OF PREVIOUSLY EXEMPT EMPLOYEES OF THE
11 STATE OR POLITICAL SUBDIVISION OF THE STATE. It is an unlawful
12 employment practice for a person elected to public office in this
13 state or a political subdivision of this state to discriminate
14 because of race, color, sex, national origin, religion, age, [~~or~~]
15 disability, or political beliefs against an individual who is an
16 employee or applicant for employment to:

- 17 (1) serve on the elected official's personal staff;
18 (2) serve the elected official on a policy-making
19 level; or
20 (3) serve the elected official as an immediate advisor
21 with respect to the exercise of the constitutional or legal powers
22 of the office.

23 SECTION 16. Section 21.152(a), Labor Code, is amended to
24 read as follows:

25 (a) A political subdivision or two or more political
26 subdivisions acting jointly may create a local commission to:

- 27 (1) promote the purposes of this chapter; and

1 (2) secure for all individuals in the jurisdiction of
2 each political subdivision freedom from discrimination because of
3 race, color, disability, religion, sex, national origin, ~~[or]~~ age,
4 or political beliefs.

5 SECTION 17. Section 21.155(a), Labor Code, is amended to
6 read as follows:

7 (a) The commission [~~Commission on Human Rights~~] shall refer
8 a complaint concerning discrimination in employment because of
9 race, color, disability, religion, sex, national origin, ~~[or]~~ age,
10 or political beliefs that is filed with the [~~that~~] commission to a
11 local commission with the necessary investigatory and conciliatory
12 powers if:

13 (1) the complaint has been referred to the commission
14 [~~Commission on Human Rights~~] by the federal government; or

15 (2) jurisdiction over the subject matter of the
16 complaint has been deferred to the commission [~~Commission on Human
17 Rights~~] by the federal government.

18 SECTION 18. This Act applies to conduct occurring on or
19 after the effective date of this Act. Conduct occurring before that
20 date is governed by the law in effect on the date the conduct
21 occurred, and the former law is continued in effect for that
22 purpose.

23 SECTION 19. This Act takes effect September 1, 2017.